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Guarding the Guardians: Promising Practices for Court Monitoring

by Loree Cook-Daniels

Editor's Note: On August 13, 2007, the heiress Brooke Astor died at the age of 105. Allegations of her being financially abused and neglected had become public in July 2006, when a grandson petitioned the New York Supreme Court to end the guardianship held by his father, Anthony Marshall, 83, and appoint a new one. (See Roslyn Myers, "Brooke Astor and Fraud?", 9 (5) SLR 71 (Jan./Feb. 2007).)

With more developments coming—Marshall was indicted in November 2007 on charges of fraud and grand larceny—the issue of who is guarding the guardians is, once again, in the public eye.

This topic has long been on the agendas of such entities as the American Bar Association (ABA) and American Association of Retired Persons (AARP). From 1990 through 1997, AARP sponsored a National Guardianship Monitoring Project that set up AARP volunteer programs in 55 courts. In 1991, the ABA outlined comprehensive steps to enhance guardianship monitoring. In 2005, the AARP Public Policy Institute joined with the ABA's Commission on Law and Aging in launching a two-year study

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Tragedy in Three Acts

Emergency Preparedness and the St. Rita's Nursing Home Catastrophe

by Robert A. Mead, J.D., M.L.S.

On September 7, 2007, Salvador and Mabel Mangano were found not guilty of negligent homicide in the deaths of 35 residents of the St. Rita's Nursing Home. The residents had died of drowning in their St. Bernard Parish nursing home during the flooding that accompanied Hurricane Katrina. Although wrongful death tort lawsuits continue against the Manganos, the jury absolved them of criminal guilt. Unfortunately, like most tragedies, the final act, the jury's verdict, was a culmination of poor decisions, hubris, and, perhaps, fate on the part of the characters in the story. This essay examines the events that led to the deaths at St. Rita's, followed by the trial that exonerated the couple.

Prelude

The St. Rita's Nursing Home tragedy is rooted, initially, in the facility's apparent failure to adequately plan for an evacuation of residents. The facility was a one-story brick building that sat on comparatively high ground in the low-lying region southeast of New Orleans. It had not flooded prior to Hurricane Katrina, even during Hurricane Betsy in 1965. It was owned and operated by

Salvador and Mabel Mangano and had a better than average safety record, with no deaths related to substandard care. The parish coroner and former medical director at St. Rita's, Dr. Bryan Bertucci, stated, and later testified, "This was a very good home, provided very good care. The owners are very conscientious toward the patients." (CNN Newsnight, "President Bush Accepts Responsibility for Katrina Failures; Controversy Over Gathering of the Dead in New Orleans; Did Racism Affect the Government's Response to Hurricane Katrina?", broadcast Sept. 13, 2005; available at <http://transcripts.cnn.com/TRANSCRIPTS/0509/13/asb.01.html>.)

Written Emergency Preparedness Plan Required. The Louisiana emergency preparedness regulation required nursing homes to have a written emergency preparedness plan that conformed to a model plan written by the Office of Emergency Preparedness. (La. Admin. Code tit. 48 § 9729.) The plan had to describe the "evacuation of residents to a safe place" with ongoing "delivery of essential care and services to residents" wherever they are housed

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during an emergency. Additionally, it had to provide for management responsibilities and functions, including “coordinating transportation services required for evacuating residents to another location” and the notification of the resident’s family or sponsor if the resident was evacuated. The regulation also required the activation of the plan at least annually, “either in response to an emergency or in a planned drill,” with the plan’s performance evaluated, documented, and revised, if necessary. Finally, the plans had to be reviewed, approved by the parish’s Office of Emergency Preparedness, and made available to the Office of the State Fire Marshal.

Evacuation Foreseeable Event. In hurricane country, evacuation is a foreseeable event. Up to 70 residents lived at St. Rita’s, including a number of “special needs” residents who required ambulance transfers to an evacuation facility with the appropriate medical capabilities. Unfortunately, the emergency preparedness plans required in the regulations were found to be mostly fictitious by the Senate committee that investigated the causes of the Hurricane Katrina tragedy:

Nursing homes in the metropolitan New Orleans area had their own Emergency Operations Plans (EOPs) that incorporated evacuations. In addition, Louisiana law required nursing homes to main-

tain EOPs and provide them to their parish emergency managers to “review and approve” the plans. In reality, the Committee staff found that few parishes followed through on this guidance . . . The Committee also found that there was no process to vet the plans for consistency and practicability. For example, many nursing homes rely on ambulance services to evacuate their populations. During a crisis, however, ambulance services may be in use by other nursing homes or hospitals. Furthermore, nursing homes and hospitals are not required to evacuate. The facility’s plan could simply be to weather the storm—even if the nursing home is in a flood-prone area. In short, nursing homes are only required to have their emergency plans on the books, which is a far cry from ensuring that they will actually work during a time of crisis. The results were predictable. As Katrina approached, nursing homes found themselves without evacuation resources. (Senate Committee on Homeland Security and Governmental Affairs, “Hurricane Katrina: A Nation Still Unprepared,” S. Rpt. 109-322 (2006) (hereinafter, “Still Unprepared.”)

St. Rita’s appears to have had a minimalist emergency plan, at best. At the trial, Julie Cullen, an assistant attorney general, argued that its plan relied on transportation from a single,

nine-passenger van owned by Sal Mangano’s company, instead of having a contract with a bus company. She concluded, “Their emergency plan was nothing but a big, fat fraud.” (Paul Rioux and Cindy Chang, “Manganos Not Guilty in St. Rita’s Nursing Home Case,” *Times-Picayune*, Sept. 7, 2007, at A1.)

Transfer Trauma. Despite the apparent negligence of the Manganos regarding their failure to create and implement a workable evacuation plan, there is not consensus among the experts that evacuation is a particularly helpful action for frail residents. The Senate Committee on Homeland Security and Governmental Affairs noted succinctly:

In the past, patients had deteriorated and even died while languishing in evacuation gridlock, some of it in response to storm warnings that turned out to be false alarms. (“Still Unprepared,” supra.)

Emergency preparedness evacuation plans for nursing home residents are complicated by the fact that elders often die or are injured during such evacuations. Gene G. Hernandez, the Florida Secretary of Elder Affairs, testified to Congress that:

The evidence is overwhelming that, without extraordinary preparatory efforts that are hardly ever made, any move is harmful for the preponderance of the frail elderly;

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of “disability.” Colker contends “such legislative action should be unnecessary,” arguing that “the Supreme Court should correct the error itself and allow Congress

to devote its time to considering other legislative matters.” She is fundamentally right, although whether by legislative or judicial correction, the proper definition of disability needs to be emphasized within Title I of the ADA. If the Court will

not remedy the problem it has created, then Congress must.

Available from: William and Mary Law Review at <http://www.WM.edu/law/publications/lawreview/documents/Colker.pdf>. ■

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the technical term is “transfer trauma.” (H.R. Rep. No. 106-44 (1999).)

The evacuation of 47 residents in the 1997 Ada, MN, flood, gives a striking example of the impact of transfer trauma—within seven months of being transferred, 15 of the residents were dead. Charlie Hicks, the nursing home’s director, explained:

[T]he stress of being uprooted in the middle of the night and deposited in places far from their families has simply been too much for many of the old people weakened by age and disease. (William Oriol, *Psychosocial Issues for Older Adults in Disasters* (1999).)

Transfer trauma exacerbates the psychiatric and behavioral conditions affecting over 90% of nursing home residents. The most potentially lethal transfers are those in which a facility is shut down or its residents are otherwise dispersed, causing a “serious deterioration in the support system.” (U.S. Admin. on Aging and the Kansas Dep’t on Aging, *Emergency Preparedness Manual for the Aging Network* (1995).)

Catastrophe

In a chain of events worthy of a Greek tragedy, St. Rita’s Nursing Home’s poor emergency preparedness produced catastrophic results. As Hurricane Katrina approached southeastern Louisiana from the Gulf of Mexico, having been downgraded from a category five to a category four hurricane, a number of parishes ordered the mandatory evacuation of residents. (LA State Police News Release, “Southeast Louisiana Evacuations Continue,” Aug. 28, 2005.) Unfortunately, it is unclear whether St. Bernard’s Parish ever ordered such an evacuation. On August 28, 2005, a news release from the Louisiana State Patrol regarding mandatory evacuation categorized St. Bernard

Parish’s evacuation as mandatory, but also noted that the parish had made a “strong recommendation of evacuation.” (Bruce Nolan, “Katrina Takes Aim,” *Times-Picayune*, Aug. 28, 2005, at 1.) Somewhat earlier, on Saturday, August 27, 2005, the New Orleans *Times-Picayune* website quoted St. Bernard Parish Emergency Management Director Larry Ingargiola as saying that the parish had “recommended that all residents evacuate, though it likely will not declare a mandatory evacuation because the parish won’t offer shelters.” (“Katrina Evacuation Directives,” *Times-Picayune Web Edition*, Aug. 27, 2005.) Disturbingly, Parish President Junior Rodriguez explained that the reluctance on the part of parish officials to call a mandatory evacuation was also partially motivated by financial concerns:

When we issue a mandatory, that’s when most of the businesses shut down. Banks shut down and also refineries begin to shut down. And it’s a substantial loss with regard to fuel, natural gas, petroleum issues. (CBS *48 Hours*, “No Way Out: A Couple Faces Life in Prison After 35 People Die in Their Care,” Feb. 2, 2008; transcript available at <http://www.CBSNews.com/stories/2008/01/31/48hours/main3774658.shtml> (“No Way Out”).)

The apparent failure to issue a clear mandatory evacuation order played significantly in the Manganos’ successful criminal defense and exposes the parish to partial liability in the tort actions.

Fateful Decisions. A recent CBS *48 Hours* story on the St. Rita’s tragedy summarizes the final, fateful decisions that resulted in death:

By Sunday morning, August 28, Katrina was churning through the Gulf and upgraded to a category five hurricane, the most dangerous kind. At 8 a.m., parish officials broadcast their starkest warning yet to those who might still be in the parish. “You need to leave. You must

leave St. Bernard Parish and head north,” they warned. But just after that message was broadcast, parish officials learned that St. Rita’s nursing home had still not evacuated. “It was shocking,” says Parish Clerk Polly Boudreaux. “I think we were all mortified that, you know, at that stage that they would still be there.” Boudreaux was ordered to call Mabel Mangano to see if St. Rita’s needed buses to evacuate. “Her comment was that they were concerned about the condition of the very frail patients, that if they put them on the buses, those who were the most frail would not survive the trip on the bus,” Boudreaux says. Later that morning, Parish Coroner Dr. Bryan Bertucci called St. Rita’s again. “I spoke to Mabel, and told her that I had two buses that could take the residents wherever she wanted.” The response that I got was that, “We have five special needs patients, five nurses, two generators. And I’ve spoken to most of the families, and they said we could stay.” My response was, “Do you want the buses, or do you not want the buses? The answer was no.” (“No Way Out,” supra.)

This refusal of buses was the last opportunity for the Manganos to avoid “sheltering in place” during the brunt of the hurricane on Sunday night, August 28, 2005. Fifty-nine residents and over 30 friends, family members, and staff rode out the hurricane at St. Rita’s.

Wall of Water. On the morning of Monday, August 29, 2005, it appeared that the decision to stay at St. Rita’s had been correct. In the *48 Hours* interview conducted after her acquittal, Mabel Mangano said:

The parking lot didn’t have any water in it, not even rainwater was standing in the parking lot. So, we felt real good the morning of the hurricane. We felt like, “God,

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it's gone. We have it made. All of our residents are safe." ("No Way Out," supra.)

At approximately 10:30 in the morning, after the storm passed, Salvador Mangano and several others stepped outside to inspect the grounds. They heard a rumbling sound and saw a wall of water racing toward them from across the street. They rushed back inside and attempted to barricade the doors and windows against the flood. Within 20 minutes, the water filled the rooms of St. Rita's from floor to ceiling. Contrary to some early media reports, the Manganos did not abandon their residents during the flooding, but instead stayed to work with their staff, firefighters, and neighbors to save as many residents as they could. Also contrary to early reports, none of the victims were found strapped to their beds or wheelchairs. The Manganos and other rescuers used mattresses wrapped in plastic to float the 24 survivors to safety. (Laura Parker, "What Really Happened at St. Rita's?," USA Today, Nov. 29, 2005, at 1A.) The remaining 35 residents drowned in the floodwaters. Salvador Mangano confides that "It was horrible . . . It was horrible that we'd lost this many people. And we were hoping we could save more. It was just horrible. Horrible." ("No Way Out," supra.)

Catharsis?

In his work *Poetics*, Aristotle argues that a good tragedy needs a cathartic moment to allow the audience to process the great emotion of the tragedy and bring restoration and a renewed sense of balance. Like the trauma of the September 11 terrorist attacks, the horror Katrina brought to the nation's living rooms demands a catharsis. With the national media initially portraying the Manganos as monsters, their successful prosecution could have brought some sense of closure to the sense of the gross injustice wrought by Katrina. According to the family members of the St. Rita's victims who sat through the month-long trial, conviction certainly would have brought some measured sense of justice and closure. The daughter of one victim, Cheryl Gallodoro, explains:

To hear that my dad was left in a building, and drowned, that's just unforgivable. I was told that he would be cared for the way he

needed to be cared for. And taken out of harm's way . . . They lied to us and therefore my father perished. ("No Way Out," supra.)

Our collective desire for purely evil villains and perfect justice was foiled by the prosecution of the Manganos. Life is clearly more complicated than a well-constructed script and the final act of the St. Rita's Nursing Home tragedy leaves much to be desired.

Fraud Control Unit Investigation. As details of the horror of St. Rita's unfolded, the Louisiana authorities began to attribute blame. On September 8, 2005, Louisiana Attorney General Charles C. Foti, Jr. announced that his Medicaid Fraud Control Unit was investigating the deaths at St. Rita's Nursing Home and that authorities were looking for the Manganos and any other witnesses. (Charles C. Foti, Jr., Office of Attorney General, State of Louisiana, "Attorney General Medicaid Fraud Control Unit Investigators Looking for Nursing Home Owners," Sept. 8, 2005; available at <http://Web.Archive.org/web/20060712080618/www.ag.state.la.us/ViewPressRel.aspx?RelID=419>.) On September 13, Salvador and Mabel Mangano voluntarily surrendered to the Medicaid Fraud Control Unit investigators. They were each charged with 35 counts of negligent homicide as well as 64 counts of cruelty to the infirm. The Louisiana "Cruelty to the Infirm" statute required the prosecution to prove the "intentional or criminally negligent mistreatment or neglect" by the Manganos caused the residents of St. Rita's "unjustifiable pain, malnourishment, or suffering." (La. R.S. § 14:93.3(a).) From the very beginning, the Manganos' attorneys sought to defend their clients by placing the blame squarely on the parish, state, and federal governments.

Four Governmental Failures. The crux of the successful defense argument rested on four governmental failures, namely:

1. The failure to properly manage and enforce Louisiana's emergency preparedness requirements for nursing homes;
2. The failure to call for a mandatory evacuation in St. Bernard Parish;
3. The failure to construct levees strong enough to prevent flooding and the levees' failure; and
4. The failure to treat the Manganos fairly.

The absence of an emergency preparedness planning regulatory scheme that required realistic planning and actual adherence is, perhaps, the most glaring governmental failure, but is also the failure with the most realistic remedy. Policies at both the state and federal level can be adjusted to force compliance, with the threat for noncompliance being a cessation of Medicare and Medicaid funding. Advocates should learn the lesson of St. Rita's and push hard for continued regulatory diligence on this issue.

Mandatory Evacuation. The second alleged failure is less clear. In the trial, the prosecution contended that the apparent failure of St. Bernard Parish to call for a mandatory evacuation was inconsequential because the Manganos could not have effectively evacuated with a nine-passenger van. Julie Cullen, the assistant prosecutor, argued:

It's our position it was just a plan on paper. It was never going to be enforced. They had no intention of evacuation . . . They made no calls to the ambulance service to try to evacuate any special needs patients that they had. ("No Way Out," supra.)

In the post-trial interview, Salvador Mangano responded:

Well, we figured if we would call a mandatory evacuation, if we had to go, we'd have gotten buses or something from somebody, the parish would have furnished some kind of buses for us. ("No Way Out," supra.)

Defense counsel apparently convinced the jury that the evacuation was never mandatory and persuaded the jury that the buses offered by Dr. Bertucci were unnecessary because it was safer to shelter in place than expose the residents to the horrors of transfer trauma. Julie Cullen's response is compelling:

There were four nursing homes in St. Bernard Parish who were all dealing with the same warnings, the same geographical, topographical conditions. The other three nursing homes evacuated 188 elderly residents similar in age and medical condition to those residents in St. Rita's. And out of 188, one died as opposed to

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even as the patient is becoming more agitated. Beyond an AMS score of 2, no clear differences in BIS scores were observed. The authors conclude this is likely because of the difficulty in getting an accurate BIS score on an agitated patient who will not hold still! BIS scores in these patients would read higher because of interference of muscle movement. In conclusion, BIS scores decreased as the AMS score progressed in either direction from zero indicating that both sedation and agitation are associated with a decreased level of awareness. (J.R. Miner, A. Gaetz, and M.H. Biros, "The Association of a Decreased Level of Awareness and Blood Alcohol Concentration With Both Agitation and Sedation in Intoxicated Patients in the ED," 25 *American J. of*

Emergency Medicine 743-48 (Sept. 2007).)

Delayed Impairment After Drinking Misleads Drivers

This small study looked at changes in driving behavior and cognitive performance with respect to different breath alcohol concentrations (BrAC). Subjects had alcohol levels of 0.00, 0.25, 0.4, and 0.5mg/l. They then participated in a simulated driving test under different road conditions. In addition, they were asked to perform other tasks and report their "subjective psychological load" at specified intervals. Not surprisingly, tasks that involve shifting of attention, information processing, visual perception, and short-term memory showed marked deterioration with increasing BrAC.

However, dangerous external driving behavior only occurred when the BrAC reached 0.4mg/l. At this level, the deterioration was profound.

Again, the small study size prevents definite conclusions, but the authors discuss this phenomenon. Increasing alcohol may not pose an immediate threat on external driving. Experience and will power may compensate for early deterioration allowing drivers to maintain steering control. This delay between alcohol consumption and impaired driving performance may mislead drivers into thinking they will be safe behind the wheel. (Yung-Ching Liu and Shing-Mei Fu, "Changes in Driving Behavior and Cognitive Performance With Different Breath Alcohol Concentration Levels," 8 (2) *Traffic Injury Prevention* 153-61 (Jun. 2007).) ■

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35 drowning in place in St. Rita's. ("No Way Out," supra.)

Nonetheless, this response failed to persuade the jury, due to the third governmental failure.

Levee Construction. The federal government failed to properly construct levees on the Mississippi River Gulf Outlet canal (known locally as "Mr. Go"). The Manganos' attorney, James Cobb, argued:

They call it the "Hurricane Highway." The people in St. Bernard had been complaining about it for 20 years . . . And what has the Corps done with those complaints? "You'll be okay. The levees will hold." And that's what Sal and Mabel relied upon. And that's what thousands of other people relied upon. ("No Way Out," supra.)

This argument was largely responsible for the acquittal.

Juror Michael Cavalier, a middle school English teacher, said he was swayed by defense arguments that the government was largely to blame for the tragedy because of breached levees and the state's failure to help evacuate nursing homes under a revision to its emergency plan that took effect a few months before Katrina. "When I first walked in here for jury selection, I was like, 'They're guilty as sin,'" he said.

"It was not one particular thing that changed my mind, but the fact that state officials didn't carry out their duties was a big factor." (Rioux and Chang, Sept. 7, 2007, supra.)

In closing arguments, another of the Manganos' attorneys, John Reed, argued:

If they had built the levees the way they had promised 40 years ago after Hurricane Betsy, not a single person would have drowned at St. Rita's or in St. Bernard Parish. It's as simple as that. ("No Way Out," supra.)

Unjust Treatment. The final failure alleged by the defense was the failure of the state to treat the Manganos justly. Other Louisiana nursing homes also decided not to evacuate their residents. Louisiana Attorney General Charles C. Foti, Jr. instigated criminal investigations against 13 nursing homes and six hospitals for failing to evacuate patients. (Jan Moller, "Hospitals, Homes See More Storm Fallout: State Urged to Review Emergency Plans," *Times-Picayune*, Oct. 5, 2005, at 2.) The Manganos were the only owners prosecuted. The Louisiana Nursing Homes Association found that of the approximately 60 nursing homes affected by Katrina, only 21 evacuated before the storm. (Anne Hull and Doug Struck, "At Nursing Home, Katrina Dealt Only the First Blow: Nuns Labored for Days in the Fatal Heat to Get Help for Patients," *MSNBC.com*, Sept. 23, 2005;

available at <http://www.WashingtonPost.com/wp-dyn/content/article/2005/09/22/AR2005092202263.html>.) Some of these decisions not to evacuate were nearly as lethal as the tragedy at St. Rita's. For example, at least 19 residents died in the Lafon Nursing Home of the Holy Family in eastern New Orleans. The Senate Committee on Homeland Security and Governmental Activities found that:

Many nursing homes in and around New Orleans lacked adequate evacuation plans. Although they were required to have plans on file with local government, there was no process to ensure that there were sufficient resources to evacuate all the nursing homes at once, and dozens of patients who were not evacuated died. ("Still Unprepared," supra.)

The jurors in the case expressed sympathy for the Manganos at the end of the case, evidence that defense counsel was able to create a sense of unfairness in the case.

Scapegoats for Serious Intergovernmental Failures

Advocates for elders and people with disabilities are likely to find the jury's decision to acquit the Manganos distasteful. They clearly should have had a decent evacuation plan. They are likely

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to be found grossly negligent in the tort lawsuits. Arguably, the case is a better example of good lawyering than justice served. Nevertheless, the cause of the tragedy experienced at St. Rita's is deeper than simple hubris and stupidity. In many ways, the state of Louisiana's decision to prosecute the Manganos made them

scapegoats for serious intergovernmental failures. Residents of nursing homes deserve better than this. Meaningful reform and enforcement of emergency preparedness plans must continue to be demanded by the advocacy community. (Robert A. Mead, "St. Rita's and Lost Causes: Improving Nursing Home Emergency Preparedness," 7 Marq. Elder's Advisor 153 (2006).)

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the Subcommittee on Crime, Terrorism, and Homeland Security.

Also on December 6, 2007, Rep. Chabot (R-OH) introduced H.J. Res. 66. The resolution proposes an amendment to the Constitution of the United States to establish and protect the rights of victims of violent crimes. Under the bill, victims of crime would have the following rights:

1. The right to reasonable and timely notice of any public proceeding involving the crime and of any release or escape of the accused;
2. The right not to be excluded from such public proceeding;
3. The right reasonably to be heard at public release, plea, sentencing, reprieve, and pardon proceedings; and
4. The right to adjudicative decisions that duly consider the victim's safety, interest in avoiding unreasonable delay, and just and timely claims to restitution from the offender.

Nursing Homes, Social Services.

The resolution was referred to the Committee on the Judiciary and the Subcommittee on the Constitution, Civil Rights, and Civil Liberties.

The **Nursing Home Quality and Transparency Act** (S. 2480) was introduced by Senator Clinton (D-NY) on December 13, 2007. The bill would require the Secretary of Health and Human Service to publicly disclose the identity of long-term care facilities listed under the Special Focus Facility Program of the Centers for Medicare and Medicaid Services. The bill was referred to the Committee on Finance.

Rep. Space (D-OH) introduced the **Aiding Social Services in States Temporarily Act of 2008** on January 23, 2008. The bill, H.R. 5133, would amend Title XX of the Social Security Act to

increase fiscal year 2008 funding for the program of block grants to states for social services. The bill was referred to the Committee on Ways and Means.

On January 23, 2008, the "**Mentally Ill Offender Treatment and Crime Reduction Reauthorization and Improvement Act of 2008**" passed the House. The bill (H.R. 3992), introduced by Rep. Scott (D-VA) on October 30, 2007, amends Title I of the Omnibus Crime Control and Safe Streets Act of 1968 to provide grants for the improved mental health treatment and services provided to offenders with mental illnesses. On November 5, 2007, Senator Domenici (R-NM) introduced a companion bill with the same title (S. 2304) in the Senate. The bill was scheduled for mark up on January 31, 2008.

Hearings and Other Activities

The House Oversight and Government Reform Committee held a hearing on November 1, 2007, entitled "The Administration's Regulatory Actions on Medicaid: The Effects on Patients, Doctors, Hospitals, and States." The witness statements, a webcast of the hearing, and follow-up letters to the HHS secretary, CMS director, and state Medicaid directors are available online at <http://Oversight.House.gov/story.asp?ID=1578>.

Nursing Homes. The Senate Special Aging Committee held a hearing on nursing home transparency and improvement on November 15, 2007. The focus of the hearing was on federal, state, and industry initiatives to improve nursing home transparency, enforcement, and the quality of services in the country's 16,000 nursing homes. The witness statements and a webcast of the hearing may be accessed at http://Aging.Senate.gov/hearing_detail.cfm?id=287588&.

Also on November 15, 2007, the Health Subcommittee, House Ways

and Means Committee, held a hearing on trends in nursing home ownership and quality. Witness statements and submissions for the record are available online at <http://WaysandMeans.House.gov/hearings.asp?formmode=detail&hearing=601&comm=1>.

Courts, Guardians. On December 11, 2007, the House Judiciary Committee, Subcommittee on Antitrust, Competition Policy, and Consumer Rights held a hearing entitled "The Sunshine in Litigation Act: Does Court Secrecy Undermine Public Health and Safety?" A witness list and a webcast of the hearing may be accessed at <http://Judiciary.Senate.gov/hearing.cfm?id=3053>.

On December 13, 2007, the ranking member of the Senate Special Committee on Aging, Senator Gordon Smith (R-OR), issued a report "expos(ing) deficiencies in elder abuse prevention." The report, entitled "Guardianship for the Elderly: Protecting the Rights and Welfare of Seniors With Reduced Capacity," and appendices may be downloaded from http://Aging.Senate.gov/minority/index.cfm?FuseAction=PressReleases.Detail&PressRelease_id=598&Month=12&Year=2007. The report was issued in a press briefing in conjunction with AARP and the American Bar Association Commission on Law and Aging, which simultaneously released their publication, entitled "Guarding the Guardians: Promising Practices for Court Monitoring." The publication is available online at http://www.AARP.org/research/legal/guardianships/2007_21_guardians.html.

The Senate Special Committee on Aging held a hearing entitled "Elder Voters—Opportunities and Challenges" on January 31, 2008. Witness statements and a webcast of the hearing are available online at http://Aging.Senate.gov/hearing_detail.cfm?id=291548&. ■